



JOINT STAFF INSTRUCTION

J-1

DISTRIBUTION: A, C, J

JSI 1010.01B

12 October 2001

EQUAL OPPORTUNITY AND EQUAL EMPLOYMENT OPPORTUNITY (EO/EEO) PROGRAM

References: See Enclosure B.

1. Purpose. To establish policies, outline responsibilities, and prescribe procedures for the implementation of the Joint Staff EO/EEO Program.
2. Cancellation. JSI 1010.01A, 1 September 2000, is hereby canceled.
3. Applicability. This instruction applies to all military and civilian personnel assigned or attached to the Joint Staff. This instruction is distributed to the combatant commands and Military Services for information only.
4. Policy. It is Joint Staff policy to promote an environment where everyone has an opportunity to reach his or her full potential, free from unlawful discriminatory practices and inappropriate behavior. Unlawful discrimination is contrary to good order and discipline and counterproductive to mission accomplishment. Service members will be evaluated only on individual merit, fitness, and capability consistent with reference a. Civilian personnel actions taken by DOD management officials, civilian, and military will conform to laws and regulations implementing established merit principles and must be free of prohibited personnel practices as described in reference b.
5. Definitions. See Glossary.
6. Responsibilities. See Enclosure A.

7. Summary of Changes. This revised instruction incorporates changes to DOD policy guidelines as prescribed by section 508 of the Rehabilitation Act of 1973, as amended by 29 USC.

8. Releasability. This instruction is approved for public release; distribution is unlimited. DOD components (to include the combatant commands), other Federal agencies, and the public may obtain copies of this instruction through the Internet from the CJCS Directives Home Page--<http://www.dtic.mil/doctrine>. Copies are also available through the Government Printing Office on the Joint Electronic Library CD-ROM.

9. Effective Date. This instruction is effective upon receipt.



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Enclosures:

- A -- EO/EEO Program Guidelines
- B -- References
- GL -- Glossary

ENCLOSURE A

EQUAL OPPORTUNITY AND EQUAL EMPLOYMENT OPPORTUNITY
(EO/EEO) PROGRAM GUIDELINES

1. Purpose. To establish policy and procedures for administration of the Joint Staff EO/EEO program.
2. Applicability. This enclosure applies to all Joint Staff military and civilian personnel. It implements the Joint Staff EO/EEO program in accordance with the references.
3. General. The Joint Staff is committed to maintaining a work environment free from unlawful discriminatory practices and inappropriate behavior. In support of that commitment, the Joint Staff will:
 - a. Promote, support, and enforce the DOD EO/EEO programs throughout the Joint Staff.
 - b. Ensure all individuals are treated with dignity and respect.
 - c. Provide an environment where everyone has an opportunity to reach his or her full potential.
 - d. Prohibit illegal discrimination based on race, color, religion, gender, national origin, mental or physical handicap, or age as described in references c, d, and e.
 - e. Provide an environment free from sexual harassment.
 - f. Use the supervisory chain as the principal channel for correcting discriminatory practices and for ensuring that human relations, sexual harassment, and EO concerns are addressed.
 - g. Identify avenues of assistance for personnel who believe they are victims of discrimination or sexual harassment.
 - h. Ensure that complaints of alleged illegal discrimination or sexual harassment are given prompt and fair consideration.

4. Responsibilities

a. The Chairman of the Joint Chiefs of Staff serves as a member of the DOD Military Equal Opportunity Council in accordance with reference a.

b. The Director, Joint Staff, will:

(1) Direct and manage an EO/EEO program within the Joint Staff that complies with DOD policy and regulations.

(2) Provide a work environment free from discrimination based on race, color, religion, gender, national origin, mental or physical handicap, or age as described in reference d.

(3) Represent the Chairman of the Joint Chiefs of Staff in matters related to the implementation of EO/EEO policy and procedures in the joint environment. Communicate all DOD EO/EEO policies and program guidance to the combatant commands.

(4) Determine the final disposition of formal complaints initiated by Joint Staff personnel.

(5) Ensure that appropriate corrective and disciplinary actions are taken if unlawful discrimination or reprisal is substantiated.

(6) Direct an investigation of all allegations of sexual harassment.

c. The Director for Manpower and Personnel (J-1) will:

(1) Serve as the Joint Staff Equal Opportunity Officer.

(2) Develop and coordinate Joint Staff EO/EEO policies and procedures.

(3) Assign an EO representative to provide advice and guidance on Joint Staff military EO policy and procedures and to serve as a liaison with OSD, combatant commands, and Service military EO representatives.

(4) Assign an officer or an enlisted EO representative for each Service to provide advice and guidance to Joint Staff military personnel.

(5) Assign a civilian EEO point of contact to serve as a liaison with the Washington Headquarters Services (WHS) EEO Office to

coordinate EEO support to Joint Staff civilian personnel as described in reference h.

(6) Ensure that Joint Staff-sponsored activities are open to all military and civilian personnel and their authorized family members without discrimination.

(7) Ensure that all Joint Staff personnel are aware of discrimination complaint policies and procedures.

(8) Maintain current regulatory information on EO/EEO and provide such information, as well as counsel, to all Joint Staff personnel.

(9) Establish and publish discrimination complaint procedures. These procedures will cover both formal and informal means for resolving complaints and include timelines for resolution.

(10) Inform personnel in the supervisory chain of concerns affecting the equal opportunity climate of the Joint Staff and recommend solutions.

(11) Ensure all Joint Staff military members are made aware of the benefit of their Service's counseling and support services in matters relating to discrimination and sexual harassment.

(12) Ensure all civilian personnel are advised that an EEO counselor must be contacted within 45 days of the discriminatory action in order to preserve the right to later file a formal complaint as described in reference i.

(13) Ensure all personnel assigned EO responsibilities or having program-associated responsibilities, such as inspectors general, chaplains, judge advocates, and investigating officers, receive such training as may be necessary for the administration of EO duties.

(14) Monitor EO, human relations, and prevention of sexual harassment training to meet Service-wide training requirements.

(15) Ensure that any administrative or disciplinary action as a result of a substantiated complaint is coordinated with the appropriate Service representative with jurisdiction over Joint Staff personnel.

(16) Ensure fair, impartial, and timely investigation, resolution, and follow-up of all complaints of discrimination arising on the Joint Staff.

(17) When appropriate, identify alternative agencies and alternative dispute resolution programs available to assist in the resolution of complaints of discrimination as described in reference g.

(18) Within 72 hours of receipt of a sexual harassment complaint, forward a detailed description of the allegation to the Director, Joint Staff.

(19) Submit a final report on the results of any investigations initiated through Joint Staff channels to the Director, Joint Staff, within 10 days after completion of the investigation.

d. The Deputy Inspector General (IG), Joint Staff, will:

(1) Provide assistance and advice to the investigating officer to ensure investigations are conducted within prescribed DOD guidelines.

(2) Review completed investigations to identify the need for changes to Joint Staff procedures.

(3) Refer discrimination or sexual harassment complaints received through IG channels to the Director, J-1, for resolution and/or further disposition.

(4) Ensure that allegations of reprisal as a result of filing a discrimination or sexual harassment complaint are appropriately investigated as required.

e. The Chairman's Legal Counsel will provide advice to the Chairman or designated representative regarding the administration and management of the Joint Staff EO/EEO program.

f. The Joint Staff Information Resource Management Office will ensure that electronic and information technology provided by the Joint Staff is accessible to employees and members of the public with disabilities authorized access to Joint Staff controlled information and electronic devices and websites in compliance with reference j.

g. Directors of Joint Staff directorates, will:

(1) Establish and maintain a positive equal opportunity climate within their directorates, ensuring that the Joint Staff Equal Opportunity Program is afforded appropriate visibility and support.

(2) Handle complaints surfaced through the supervisory chain expeditiously, seriously, and without recrimination toward the member

who alleges discrimination. Sexual harassment complaints must be directed to the Joint Staff EO officer. Confidentiality will be maintained to the maximum extent possible.

(3) Attempt to resolve informal complaints through internal directorate channels within 14 days of receipt of the complaint. Depending upon the magnitude of the complaint, it may be necessary to refer the complaint to the Joint Staff EO officer.

(4) Refer Informal complaints by military personnel not resolved within 14 days to the Joint Staff EO officer.

(5) Advise civilian personnel who file an informal complaint through directorate-level channels of the requirement to contact an EEO counselor within 45 days of the discriminatory action to preserve the right to later file a formal complaint.

(6) Provide feedback to all individuals affected, consistent with the requirements of the Privacy Act.

(7) Refer unsatisfactorily resolved complaints to the Joint Staff EO officer.

h. Joint Staff personnel will:

(1) Be aware of the EO/EEO policy and policies on the prevention of sexual harassment and procedures for complaints of discrimination.

(2) Treat coworkers and peers with dignity and act with a sense of personal commitment to the DOD EO/EEO programs to ensure that the climate of the Joint Staff conforms fully with policies enunciated herein.

(3) Surface EO/EEO concerns promptly to supervisors.

(4) Contact an EEO counselor within 45 days of the discriminatory action in order for civilian personnel to preserve the right to later file a formal complaint in accordance with references b and c. Civilians may choose to participate in either counseling or in alternate dispute resolution during the time prior to initiating the formal complaint process.

5. Complaint Processing

a. Complaints are divided into two categories: informal and formal. Every attempt will be made to resolve the complaint through internal Joint Staff channels. Military personnel have the right to request

assistance from their parent Service EO/Human Resources offices. Civilian personnel may elect to resolve discrimination or harassment issues using internal Joint Staff resources or may request assistance from the WHS EEO Office.

(1) Persons with disabilities should notify their immediate supervisor concerning any issues related to their inability to access or use information or receive technical assistance as a result of their disability.

(2) Persons with disabilities alleging that they have been denied access to technology and information under the provisions of Section 508 of the Rehabilitation Act of 1973 may request assistance from the WHS EEO Office in the event that the issues are not resolved through Joint Staff channels.

b. All personnel are encouraged to resolve issues and concerns at the lowest appropriate level of the supervisory chain in order to preclude disruption of good order, discipline, productivity, and the proper professional climate within which the talents of all members are fully used.

c. Within 72 hours after receipt of a sexual harassment complaint, the Joint Staff EO officer must forward the complaint or a detailed description of the allegation to the Director, Joint Staff, who will initiate an investigation.

d. Joint Staff personnel who believe that they are victims of either illegal discrimination on the basis of race, color, religion, gender, national origin, mental or physical handicaps, or age, or of sexual harassment will:

(1) If possible, indicate to the person(s) allegedly committing the discriminating or harassing action that it is unacceptable. Personnel should attempt, if possible, to resolve the issue informally and directly through dialog.

(2) If the issue cannot be resolved informally, military personnel must submit a formal complaint to the next level of the supervisory chain not directly involved in the complaint within 30 days of the incident or discovery of the incident. Civilian personnel will be referred to the WHS EEO office and must contact a WHS counselor within 45 days of the discriminatory action and may submit a formal complaint in writing within 15 days of the WHS notice of the right to file a formal complaint of discrimination.

(3) If the supervisory chain is involved in the perceived discriminatory act or sexual harassment and there is an indication of reprisal, surface the problem to the Joint Staff EO officer or to the Joint Staff Deputy Inspector General directly. If the problem is discussed initially with the EO officer and remains unresolved after 14 days, the EO officer must bring it to the attention of the Deputy Inspector General.

e. For all complaints involving a general or flag officer, senior executive Service personnel, or an O-6 (promotable), immediately refer the complaint to the Deputy IG so that appropriate notification can be made to the Department of Defense Inspector General (DOD IG). The DOD IG retains authority to conduct any investigation into allegations against senior officials.

f. Upon notification of a complaint, supervisors will take prompt actions to resolve the issue. This may be through internal investigation or mediation, or through referral to the Joint Staff EO officer. Supervisors are encouraged to document resolution with a copy furnished to the complainant. Within 45 days of completion, supervisors should contact the complainant to ensure no further actions are required.

6. Protection Against Reprisal

a. Agency personnel are prohibited from taking any action that discourages a member of the Joint Staff from filing a complaint or seeking assistance when resolving EO/EEO matters. Personnel are also prohibited from taking any disciplinary or adverse actions against a Service member or employee for filing a complaint, seeking assistance, or cooperating with an investigating officer in an EO investigation. This does not preclude taking action against individuals who file fraudulent complaints as described in reference f.

b. It is the responsibility of the supervisory chain of command to ensure that the complainant is protected from reprisal or retaliation for filing an equal opportunity complaint (including sexual harassment).

7. Sanctions. Penalties for violation of these standards include the full range of statutory and regulatory sanctions for military members and DOD employees. These prohibitions and requirements apply to all military members without further implementation. Violations may result in prosecution under the Uniform Code of Military Justice as well as adverse administrative action.

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ENCLOSURE B

REFERENCES

- a. DOD Directive 1350.2, 18 August 1995, "Department of Defense Military Equal Opportunity (MEO) Program"
- b. Title 5, United States Code, Section 2302, "Prohibited Personnel Practices"
- c. 29 Code of Federal Regulations, "Federal Sector Equal Employment Opportunity"
- d. DOD Human Goals Charter, 24 July 1998
- e. DOD Directive 1440.1, 21 May 1987, "DOD Civilian Equal Employment Opportunity (EEO) Program"
- f. DOD Directive 7050.6, 23 June 2000, "Military Whistleblower Protection"
- g. DOD Directive 5145.5, 22 April 1996, "Alternative Dispute Resolution"
- h. Administrative Instruction No. 31, 14 November 1988, "Equal Employment Opportunity (EEO) Program"
- i. Administrative Instruction No. 9, 11 January 1979, "Processing Complaints of Discrimination"
- j. Section 508 of the Rehabilitation Act of 1973, as amended 29 USC Section 794(d)

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GLOSSARY

alternative dispute resolution (ADR). Any procedure that parties agree to use, instead of a formal adjudication, to resolve issues in controversy, including, but not limited to, settlement negotiations, conciliation, facilitation, mediation, fact-finding, minitrials, and arbitration, or any combination thereof.

climate assessment. Determining the health and functioning effectiveness of an organization by examining such factors as morale, teamwork, and communication.

complaint. An allegation of unlawful discrimination based on race, color, gender, national origin, religion, or physical or mental disability.

complaint processing. The procedures whereby individual complaints of discrimination/sexual harassment are received, considered, and acted upon.

Defense Equal Opportunity Council (DEOC). A senior executive level decision-making body that provides advice and counsel to the Secretary and Deputy Secretary of Defense on all DOD EO or EEO matters.

discrimination. An act, policy, or procedure that arbitrarily denies equal treatment to an individual or a group of individuals because of race, color, religion, gender, age, national origin, ethnicity, or physical or mental disability.

equal opportunity (EO). The right of all persons to participate in, and benefit from, programs and activities for which they are qualified. These programs and activities will be free from social, personal, or institutional barriers that prevent people from rising to the highest level of responsibility possible. Persons will be evaluated on individual merit, fitness, and capability, regardless of race, color, gender, national origin, or religion.

formal complaint. Allegation of unlawful discrimination or sexual harassment that is submitted in writing to the authority designated for receipt of such complaints.

informal complaint. Allegation of unlawful discrimination or sexual harassment made orally or in writing that is not submitted as a formal complaint.

reprisal. Taking or threatening to take unfavorable personnel action or withholding or threatening to withhold a favorable personnel action, or any other act of retaliation, against an individual for making or preparing a protected communication.

sexual harassment. A form of discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or when submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or when such conduct has purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

unlawful discrimination. Includes discrimination on the basis of race, color, sex, national origin, religion, or physical or mental disability that is not otherwise authorized by law or regulation.